

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Boles Post Office  
Boles, Arkansas 72926

Docket No. A2012-37

PUBLIC REPRESENTATIVE COMMENTS  
(January 5, 2012)

On October 27, 2011, Carlene Stovall (Petitioner) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the Boles, Arkansas post office (Boles post office).<sup>1</sup> On November 2, 2011, the Commission issued Order No. 943, which instituted this proceeding, designated the undersigned Public Representative, and established a procedural schedule.<sup>2</sup> Based on discrepancies in the economic savings, the Public Representative recommends that the Commission remand the Final Determination to the Postal Service for further consideration.

In the Final Determination, the Postal Service estimates total annual savings of \$49,379 by summing the following costs: postmaster salary and benefits (\$44,279) and annual lease costs (\$5,100).<sup>3</sup> The Postal Service cites no cost of replacement service or one-time expenses.

Petitioner argues that the economic savings are inaccurate because the annual lease costs are \$4,200 rather than \$5,100. Stovall Participant Statement. In response, the Postal Service filed Item No. 52 as an addendum to the administrative record.<sup>4</sup> It states that "Item No. 52 was added to the official administrative record on December 14, 2011 in an effort to clarify certain details" in the administrative record regarding economic savings. *Id.*

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<sup>1</sup> Petition for Review of Carlene Stovall, October 17, 2011.

<sup>2</sup> Order No. 943, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 2, 2011.

<sup>3</sup> Final Determination at 5. The Final Determination is included as Item No. 47 in the Administrative Record, which is attached to the United States Postal Service Notice of Filing, November 14, 2011.

<sup>4</sup> United States Postal Service Notice of Filing Addendum, December 16, 2011.

Specifically, Item No. 52 lowers the annual lease cost to \$4,620 and adds cost of replacement service (\$5,032) and one-time expenses (\$7,568). Item 52 also includes a revised Final Determination to reflect these new figures.

The Public Representative opposes the Postal Service's attempt to supplement the administrative record with new material that is not part of the record in this proceeding. 39 U.S.C. § 404(d)(5) requires the Commission to review Final Determinations "on the basis of the record before the Postal Service in the making of such determination." The Commission's rules state that the record includes

The written determination sought to be reviewed or enforced, the conclusions and findings upon which it must be based under section [404(d)(3)] of the Act, the notices to local patrons and the evidence contained in the entire administrative record before the Postal Service....The record shall contain all evidence considered by the Postal Service in making its determination and shall contain no evidence not previously considered by the Postal Service.

39 CFR 3001.112. The Postal Service added Item No. 52 to the "official administrative record" on December 14, 2011, 75 days after the Final Determination was posted. It was not in "the record before the Postal Service" when it made its determination and contains evidence "not previously considered by the Postal Service." Thus, Item No. 52 is not part of the record on review in this proceeding, and the Commission may not consider the material in its review under 39 U.S.C. § 404(d)(5) and 39 CFR 3001.112.

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The Commission should remand the Final Determination so that discrepancies in the economic savings can be resolved. Alternatively, if the Final Determination is affirmed, the Commission should limit its review to the materials in the record filed by the Postal Service on November 14, 2011.

Respectfully submitted,

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Public Representative

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